

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services – Police Department - Sangappa ARPC 672 driver of Jeep No. AP9P 2440 formerly prosecution attached to A1 for the offences under sections 342,330,302 and 201 read with section 34 of the Indian Penal Code, 1860 in Cr. No. 27/2002 of Police Station, Thoguta Medak District – Sanction for prosecution - Orders – Issued.

HOME (Legal.II/A2) Department

G.O.Ms.No. 215

Dated: 11.12.2012

Read the following:

1. From the Addl.DGP, CID, A.P., Hyd, C.No. 5606/C26/CID/207, dt: 13.02.2012.
2. From the D.G.P., A.P., Hyderabad, Lr.Rc.No. 927/Compts-4/2011, dated: 21.02.2012.

ORDER.

Whereas, the Additional Director General of Police, CID Andhra Pradesh, Hyderabad has reported that A1 P.Madhukar Swamy, formerly CI of Police, Thoguta Circle, A2 Kareemulla Shavalla, formerly SI of Police, Thoguta, A3 C. Bhoom Reddy, HC 363 formerly of Thoguta PS, A-4 Degavath Shanakr PC 651, A-5 Bhoomaiah ARPC 330 formerly attached to A1 and A6 ARPC 672 driver of Jeep No. AP9P 2440 formerly attached to A1 worked at Thoguta Police Station, Medak District are public servants within the meaning of section 21 of the Indian Penal Code 1860 (Central Act 45 of 1860);

2. And whereas, it was reported by the Additional Director General of Police, CID, Andhra Pradesh, Hyderabad that, the brief facts of the case are that, on 10-4-2002 at 8.30 P.M. the complainant Sri. Pandi Ramulu S/o Lingaiah, aged about 55 years, Caste Golla, Occ: Agricultural R/o Venkataopet village came to PS Thoguta and orally stated that, he is the resident of Venkataopet village and eking out his livelihood by doing agriculture. He further stated that he was blessed with three daughters and two sons. That on the last Friday, Police men from Thogutta PS came to his house in a jeep and took away his elder son Pandi Yadagiri, aged about 25 years, in the jeep informing him, his wife and elder daughter that Circle Inspector of Police, Thoguta want to talk to their son Yadagiri and from the next day i.e., Saturday to Monday his family members went to Thoguta PS daily to hand over meals to his son and the Police personnel did not allow any of his family members to meet Yadagiri. That yesterday i.e., on Tuesday morning at about 10 AM his elder daughter Laxminarsavva went to Thoguta PS to hand over meals to his son and she was informed by Police at Thoguta that Pandi Yadaiah had left the PS early in the morning to attend the calls of nature and did not return. On that his daughter informed the matter to the ex-sarpanch who was present at the PS and asked him to enquire about Yadagiri, upon which he also enquired at the PS and informed her that Yadagiri was not present at the PS Thoguta and asked them to search for him with their relatives and after staying at PS Thoguta upto 07.30 PM the complainant, his daughter and son-in-law Marpally Yadagiri went back to Venkataopet. The complainant further added that, again he went to Thoguta PS on 10-04-2002 at 1000 hrs, Wednesday and enquired about Pandi Yadagiri with Police Thoguta and the Police men informed them that Yadagiri did not return to the Police Station and asked them to search for him with their relatives. Accordingly, they searched for Pandi Yadagiri with all their relatives but in vain. The complainant further stated that his son Pandi Yadagiri was brought to Police Station suspecting his involvement in the death of one Aanumolla Prabhakar of their village. Thus the complainant by giving the descriptive particulars requested to trace out his son besides necessary action into the matter;

3. And whereas, it is further reported that, the oral statement of the complainant was reduced to writing on 10-4-2002 at 2130 hrs, by LW-60 ASI Thoguta PS and registered a case in Cr.No.27/2002 under Man Missing and took up the investigation after having dispatched the FIRs to all the concerned. Subsequently, as per the instructions of Sub-Divisional Police Officer, Siddipet vide Memo No. 387/SD-SPT/02, Dtd: 10-4-2002, LW-61 CI of Police, Siddipet Town took up the investigation of the case;

4. And whereas, it is reported that, subsequently the father of the deceased namely P. Ramulu expired, deceased's sister Smt. Laxmi Narsavva filed another writ petition No. 3352/2005 before the AP High Court to which the SP Medak filed affidavit duly mentioning the above two different opinions of re-postmortem examination. But the AP High Court passed orders asking detailed report /affidavit by Principal Secretary, Home Department as the Principal Secretary, Home Department was made first respondent in the writ petition as to why an inference of custodial death of Pandi Yadagiri be not drawn and as to why the accountability be not fastened on to the state in the first instance. Principal Secretary, Home Department filed an affidavit dated: 21-10-2007 mentioning that the investigation made by the sub-divisional Police officer Toopran of Medak District into the Cr. No.27/2002 registered on the file of Thoguta PS would not suffice to come to a conclusion whether the death of Pandi Yadagiri is 1) due to sympathetic stimulation

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leading to vermicular fibrillation and cardiac arrest due to extreme degree of fear or pain or a combination of both during interrogation by the Police or 2) Strangulation by using the towel as the ligature material under the circumstances in the CD file. The circumstances that led the concerned authority to alter the section of IPC required to be looked into once again by an agency which can conduct the discreet enquiry. Therefore, the DG AP Hyderabad was asked to entrust the case to CID for discreet enquiry into the incident by a senior officer and submit its findings to Government as soon as possible. Subsequently, the Government issued instructions vide Memo No. 30348/legal.1/A2/2007 dated: 20-10-2007 to Director General of Police, Andhra Pradesh, Hyderabad with directions that the case be entrusted to and enquired into by a senior officer of CBCID immediately and a detailed report be submitted to Govt. for taking necessary action and also to place the same before the Hon'ble High Court;

5. And whereas, it is reported that, in view of the Government directions, the investigation of the case has been entrusted to CID and under the orders of the Addl. DG P CID AP Hyderabad vide Memo. C.No. 5660/C26/CID/2007 dated: 7-1-2008, the LW - 64 took up further investigation in this case;

6. And whereas, it is reported that, from the evidence on record, it is well established that, on the night of 28-03-2002 at about 1900 hrs, one Anumolla Prabhakar s/o Yadaiah aged about: 22 yrs., caste: Mudiraj occ: labour r/o Venkatraopet village was found dead under suspicious circumstance (subject matter of Cr. No. 23/2002 U/Sec: 174 Cr.PC) of PS Thoguta. In this connection, the SDPO Siddipet has issued a memo vide C. No. 331/SD-SPT/2002, dtd. 2-4-2002 directing the A1 to investigate the above case and handed over the memo in question to LW-15 on 03-04-2002 who in turn handed over to the LW-14 who immediately gave the same to the A1 and the latter having perused kept it underneath his table glass;

7. And whereas, it is reported that, after this, as part of the investigation, the A-1 instructed the LWs 19 and 21, the A2,A3,A4 and A6 to pick up the deceased and other suspects who were suspected in the above case and accordingly they picked up the deceased on 5-04-2002 and other suspects the LWs 5,6,9 to 12 and produced before the A1. In the course of the above, the LW-20 saw the Police personnel taking away the deceased from his village in the Police jeep on 5-4-2002 and so also the LW-7 and 13. The family members the LWs i.e father the LW-1, sisters the LWs 2 and 4 respectively and the brother in law, the LW-3 visited the PS from 06-04-2002 to 08-04-2002 and saw the deceased in the PS but were not allowed to meet;

8. And whereas, it is reported that, in order to get the release of the deceased and other suspects from the PS, their family members approached the village elders the LWs 16 to 18 who on the request of the family members visited the PS and tried their level best to get the suspects and the deceased but the deceased was not let off by the Police. Later, on the instructions of the A-1 and A2, the LWs 23 to 25 subjected the deceased and other suspects to interrogation involving third degree methods and the A-1 even applied current shock to the deceased's ear and of other suspects as well and the LW-22 happened to witness when the suspect LW-5 was subjected to torture with the current shock to his ears. On account of the torture subjected to the deceased in the name of interrogation to extract confession in the case in Cr.No. 23/2002 relating to the death of the deceased A. Prabhakar for which, the A-1 is the IO, the deceased became weak and was not in position to walk properly. He was treated so inhumanly by the accused that he was not allowed to meet his family members when they visited the PS pleading the Police to release him and the Police even did not heed to the requests of the village elders for the release of the deceased. Thus the accused persons wrongfully confined the deceased in the PS from 05-04-2002 to 08-04-2002 and subjected to interrogation involving third degree methods and applied current shock to the ears. On account of the torture by the accused in the course of interrogation involving the application of current shock and third degree methods, the death of the deceased resulted in the PS Thoguta;

9. And whereas, it is reported that, while the things stood thus, on 08-04-2002 at about 10 PM, the A-3 found the deceased dead in the bathroom of Thoguta with a towel tied around his neck and he immediately went to the A-1 and informed of the above upon which, the A-1 directed the other accused to remove the dead body from the PS and bury it in the outskirts and burn the clothes of the deceased. Since the A-4 who was performing PS guard duty, he was directed by the A-1 as stated above since he is well versed with the topography of the PS limits and for this, the A-4 was replaced from the guard duty with the LW-26. Accordingly, the LW-26 was mounted on guard duty in place of the A-4 and the accused took the torch light of the guard morcha and the LW-26 after mounting on guard realized about the non-availability of the usual torch light in the guard bunker. Further, the LW-28 who relieved the LW-26 also speaks that he was infact to relieve the A-4 but relieved the LW-26 and he too found the usual torch was not

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available in the sentry bunker. The LW-30 saw the A-3 in the PS at about 9-30 PM and the LWs 31 and 32 saw the Police jeep going outside of the PS in the mid night of 8-4-2002 and the LW-33 saw the Police jeep again coming in the PS from outside on the same night after some time;

10. And whereas, it is reported that, thus according to the plan hatched by the A1 to A6, the A2 to A6 removed the dead body of the deceased from the PS in the Police jeep and while doing so, they put off the power of the PS deliberately to make sure that no other suspects in the PS should see it and this deliberate act can be substantiated with the fact that, on the night of 8-4-2002 there was no official power disconnection as per the deposition of the LW-8 who is the ADE of Thukkapur sub-station Thoguta. While leaving the PS the A-3 took crow bar and two spades for digging the grave besides, they also took the torch light which usually used to be in the sentry bunker and having put the dead body in the CIP Jeep bearing No. AP9P 2440, the A-6 drove the vehicle, and they all went in the limits of Brahman Banjarpally h/o Thukkapur village and dug a pit using the crow bar and spades in the illumination of the torch light they brought and buried the deceased in it after removing his clothes and sacred thread. Later, while returning back to PS, the accused persons on the way burnt the clothes of the deceased to screen the evidence;

11. And whereas, it is reported that, later, when the relatives of the deceased went to PS on 09-04-2002 they were informed that the deceased absconded when he was allowed to answer the calls of nature and asked them to search for him at the relatives. Initially on the complaint of the father of the deceased, the LW-60 registered this case under head man missing. Since the deceased was found missing from Thoguta PS, the SDPO entrusted the investigation to the LW-61;

12. And whereas, the Government of Andhra Pradesh, after careful examination of the evidence on record and the report of Additional Director General of Police, Crime Investigation Department, AP Hyderabad felt that A1 to A6 have committed the offences punishable under sections 342,330,302 and 201 read with section 34 of the Indian Penal Code, 1860 and they should be prosecuted in the court of law for the above said offence and any other offences relating to the incident.

13. Now therefore, in exercise of the power conferred by clause (b) of sub-section (1) of section 197 of the code of Criminal Procedure 1973 (Central Act-II of 1974) the Government after careful examination of the matter hereby accord permission to prosecute A6 Sangappa ARPC 672 driver of Jeep No. AP9P 2440 formerly attached to A1 in Cr. No.27/2002 for the offences under sections 342, 330, 302 and 201 read with section 34 of the Indian Penal Code, 1860 of Police Station, Thoguta Medak District and or any other provisions of law in respect of the aforesaid offences while acting or purporting to act in the discharge of their official duties and taken cognizance in the court of competent jurisdiction.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.P.DAS
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Additional Director General of Police, CID, Andhra Pradesh, Hyderabad.

Copy to :

The Director General of Police, Andhra Pradesh, Hyderabad,
Law (E) Department,
The P.S to Prl.Secy, Home Department.
C.No. 4985/Legal.II/A2/2012
SF/SC.